

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – CV - Appeal Petition filed by Sri. Putta Ravindra S/o Jalaiah, Security Head Guard, APSRTC., Markapuram Depot, Prakasam District – Under Section 7 of Act 16 of 1993, against the Proceedings of the Collector, Nellore District, Dated: 14-3-2006 - Appeal Rejected – Orders –Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 64

Dated:11-06-2009.
Read the following:-

1. Proceedings of the Collector, Nellore District, Rc.C5/850/05, Dated: 14-3-2006.
2. Appeal Petition filed by Sri. Putta Ravindra S/o Jalaiah, Security Head Guard, APSRTC., Markapuram Depot, Prakasam District, Dated:10-4-2006 through his advocate.
3. Memo No.3586/CV.2/2006-1, Dated: 18-4-2006.
- 4.From Collector, Nellore District, Ref.C5/850/2005, Dated:21-6-2006.
5. Memo No.3586/CV.2/2006, Dated: 19-3-2008.

ORDER:

Sri. Putta Ravindra S/o Jalaiah, has filed appeal petition before the Govt. against the Proceedings, dated 17.3.2006 issued by the District Collector, Nellore District for cancellation of his ST “ Yanadi ” Caste Certificate, and submitted the following grounds:

1. The respondent failed to assess independently the report of the Screening Committee and he erred in merely relying upon the observations of the said committee.
2. The respondent erred in simply following the observations of the Committee.
3. The respondent ought to have seen that the Government Circular memo dated:16-2-1998 and 19-7-1999 were duly followed while the caste certificates were issued and the provisions of Hindu Adoptions and Maintenance Act 1956 have application.
4. The respondent ought to have seen that the observation of the committee that the entire episode of adoption was fabricated to obtain the benefits of reservation meant for ST is untenable.
5. The respondent ought to have seen that the observation of the Committee that appellant is not governed by Section 2(2) of Hindu Adoptions and Maintenance Act is erroneous.
6. The impugned order is in violation of the provisions of Section 5 of Act 1993 and Rule 9(2) of Rules 1997 in as much as the notices served upon the appellant inform VI were not signed by the Joint Collector.
7. The respondent erred in holding that the appellant played fraud and obtained Caste Certificate fraudulently.
8. The respondent also erred in directing cancellation of the caste certificates of the appellant and prosecution against him.
9. The respondent failed to take into consideration the statement of the adoptive mother of the appellant about adoption and no motive being present to obtain any false certificate.

In the reference 3rd read above, the Govt. has requested the District Collector, Nellore, to furnish parawise remarks and connected records on the appeal petition filed by Sri Putta Ravindra. The Collector, Nellore, has furnished the parawise remarks and connected records. The District Collector, Nellore has furnished the following remarks:

- (i) It is not a fact that the District Collector failed to assess independently the report of the Committee. The Collector and District Magistrate, Nellore passed orders after thoroughly examining the observations of the District Level Scrutiny Committee.
- (ii) According to instructions of the Govt., A.P. vide Circular Memo No.10956/CV.2/97-2, dated:16-2-98 paras IV,VI, the power of issuance of SC/ST Certificates, incase of adopted children has been delegated to the Joint Collector. Hence, the Yanadi (ST) caste certificates issued by the MRO's, Allur and Kavali to the respondent are invalid in the eyes of Law. It is also proved beyond doubt that the individual tried to grab the benefits earmarked for the Welfare of STs, thereby depriving a genuine ST candidate of his/her legitimate right to enjoy the benefits being extended by the Government for their up liftment. The individual intentionally tried to enjoy the benefits meant for STs.
- (iii) The Collector and District Magistrate, Nellore, has gone through the material available on record and observed that this case attracts the Government Circular Memo No.10596/CV.1/97-2, dated:16-2-1998 read with Memo No.12084/CV.1/99, dated:19-7-1999 of Social Welfare Department and the Hindu Adoption Maintenance Act, 1956, that the entire episode of adoption was fabricated to obtain the benefits of reservation, that the adoption is only for the claim of ST Caste, and that the genetic parents of the candidate and his wife also belong to Oruganti Kapu caste as stated/admitted by the candidate himself.
- (iv) It is a fact that the appellant, Putta Ravindra, S/o Jalaiah, presently working in APSRTC Depot, Markapur Depot, Prakasam District is liable for criminal prosecution in the court of law for having obtained a false community certificate fraudulently, U/S 10 of the Act, 16/1993 read with Rule 15 (a) & (b) of A.P. (SCs, STs &BCs) issue of Community, Nativity, and Dated of Birth Certificates Rules, 1997 the Form VI notices were issued to the appellant on behalf of Joint Collector, Nellore after obtaining the orders.
- (v) It is established that Sri.Putta Ravindra, S/o Jalaiah, has obtained Yanadi (ST) caste certificate as if he belonged to Yanadi(ST) community by misrepresenting the facts from the MROs Allur and Kavali. It is pertinent to mention that according to the instructions of the Govt., of A.P. vide Circular Memo No.10956/CV.1/97-2, dated:16-2-98 paras IV,VI the power of issuance of SC/ST Certificates, in case of adopted children has been delegated to Joint Collectors. Hence, the Yanadi (ST) caste certificates issued by the MROs, Allur and Kavali to the respondent are invalid in the eyes of Law. It is also proved beyond doubt that the individual tried to grab the benefits earmarked for the welfare of STs., thereby depriving a genuine ST candidate of his/her legitimate right to enjoy the benefits being extended by the Government for their up-liftment. The individual intentionally tried to enjoy the benefits meant for STs. Thus the appellant has played fraud against the Government and obtained the caste certificate fraudulently from the then MRO's Allur and Kavali as if he belonged to Yanadi (ST) community and enjoying all the benefits that flow from it.

(vi) The individual was present before the committee and stated that he was adopted by ST family, the adoption took place in the year 1977 and registered in 1985 and that he was born in the year 1969. Further Smt. Potluri. Lakshamma, the adoptive mother of the individual was also present before the Committee and stated that no other Yanadi (ST) family is there in the Village i.e. Gogulapalli of Allur Mandal. More over the appellant has stated that his wife's name is Nagalakshmi and it was love marriage and that his wife belongs to Oruganti caste.

3). The Case was called on 5-8-2006, 31-8-2007 and finally on 27-3-2008. On 5-8-2006 the appellant was absent his Counsel was present. Further on 31.8.2007 appellant present and his counsel were absent On 27.3.2008 the counsel for the appellant attended and argued the case and requested time for submitting of written arguments. The Counsel submitted written arguments on 1-4-2008.

4). On careful examination of the contentions and grounds for appeal filed by the appellant, written arguments filed by the appellant / his counsel, orders of the District Collector in the impugned proceedings and para-wise remarks, material available on the file, it is held that:-

1. The appellant though the biological son of parents belonging to "Oruganti Kapu" caste, has claimed S.T status as belonging to "Yanadi" community on the basis of his adoption by parents of Yanadi community, obtained caste certificate and also employed in a post reserved for ST candidates. Thus the sole and only basis for his claim as belonging to Yanadi ST community and consequential benefits he accrued is his adoption by tribal parents.
2. As per section 2(2) of the Hindu Adoption and Maintenance Act, 1956 (Central Act) "Notwithstanding anything contained in sub-section (1), nothing contained in this Act, shall apply to the members of any ST within the meaning of clause (25) of Article 366 of the Constitution unless the Central Government by notification in the official gazette, otherwise directs".
3. Therefore, adoption cannot be a means for claiming ST status and adoption of non-tribal children by ST parents is invalid for the purposes of Constitutional benefits. Further, the Hon'ble High Court of A.P. in W.P. No.11914 of 1985, Bandi Srinivas Vs Osmaina University, Hyderabad and others held that "Therefore, I have no hesitation to conclude that though it may be permissible for a plain man/woman to go in adoption under customary law to tribal such an adoption shall be only for the purpose of personal. But for the purpose of the Constitution, such a person outside the fold of the STs and he cannot be treated as a ST candidate".
4. In view of the above, as the appellant is not eligible for his S.T. status claim, other grounds in the written arguments filed are not tenable and baseless.
- 5). Therefore, the contentions and grounds for appeal are devoid merits.

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6). Therefore, in view of the above facts, and in exercise of the powers conferred under Section 7(2) of Act 16 of 1993, under Rules made there under as per G.O.Ms.No.58, SW (J)Department, dated 12.5.1997 the appeal petition filed by Sri. Putta Ravindra S/o Jalaiah, is hereby rejected, upholding the orders of the District Collector, Nellore, in Proceedings No. Rc.C5/850/2005, Dated: 14-3-2006. The stay granted in reference 3rd read above is hereby vacated.

7) The records received from the District Collector, Nellore, through the reference 4th read above, are return herewith in original to him, and he is requested to acknowledge receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
PRINCIPAL SECRETARY TO GOVT.

To
The District Collector,Nellore District (w.e)
Original record filed bearing No.Rc.C5/850/ 05
containing pages CF 154 and NF 8.

Sri.P.Ravindra,S/o Jalaiah,
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M/s M.Venkata Narayana, Advocate,
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Copy to:
The PS to Minister(TW& Riad)
The PS to Prl.Secretary, TW.
The DTW., Hyderabad.
The Depot Manager, APSRTC.,
Markapur, Prakasam District.
SF/SC.

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SECTION OFFICER.